

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Louis B. Rosenberg
Application No. : 10/780,852
For : **Method and Apparatus for Providing Low Cost Force
Feedback and Mechanical I/O for Computer Systems**
Filed : February 19, 2004
Examiner : Jeffrey A. Brier
Art Unit : 2628

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
DETERMINATION

Sir:

In accordance with 37 C.F.R. § 1.705(b), this request for reconsideration of Patent Term Adjustment Determination is made with payment of the Issue Fee, after the mailing of a Notice of Allowance. Applicant submits herewith the following:

- (1) Payment of the fee set forth in 37 C.F.R. § 1.18(e); and
- (2) A statement of the facts involved.

In the Notice of Allowance mailed March 9, 2010 (the "Notice of Allowance"), the Determination of Patent Term Adjustment (PTA) under 35 U.S.C. § 154(b) indicated a PTA of 640 days. It is believed that the correct PTA to date is 1,145 days.

Applicant respectfully requests that the patent term adjustment indicated in the Notice of Allowance be reconsidered because the calculation of PTA does not appear to have included 505 days of PTO delay under the decision in *Wyeth* for failing to issue a patent within 3 years of the filing date of the application.

In support of this request and pursuant to 37 C.F.R. § 1.705(b), Applicant makes the following statements:

Statements under 37 C.F.R. § 1.705(b)(2)(i)

The correct total PTO delay is believed to be 1,298 days and the correct total Applicant delay is believed to be 153 days. Thus, the correct total PTA is believed to be 1,145 days.

Statements under 37 C.F.R. § 1.705(b)(2)(ii)

The following dates are relevant to the time periods noted in section I above:

(1) 793 days of PTO delay are due under § 1.702(a)(1) for failing to issue an Office Action or a Notice of Allowance within 14 months of the filing date of the application. The relevant dates are the date 14 months after the filing date of the application on February 19, 2004 and the mailing of a Restriction Requirement on June 21, 2007.

(2) 505 days of PTO delay are due under § 1.702(b) for failing to issue a patent within three years of the filing date of the application. The relevant dates are the date three years from the filing date of the application on February 19, 2004 and the filing of a Request for Continued Examination on November 7, 2008, which totals 627 days, less 122 days for the period of overlap running from February 19, 2007 through the mailing date of the Restriction Requirement on June 21, 2007.

The total PTA credits under 37 C.F.R. § 1.702(a) and § 1.702(b) based on the credits and overlap noted above is 1,298 days.

Statements under 37 C.F.R. § 1.705(b)(2)(iii)

The patent issuing from the present application is subject to a terminal disclaimer over the following U.S. Patents:

- 5,721,566
- 5,805,140
- 6,486,872
- 6,639,581
- 6,697,048

- 7,193,607

Statements under 37 C.F.R. § 1.705(b)(2)(iv)

The following statements are required by 37 CFR § 1.705(b)(2)(iv)(A) and list any circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent application as set forth in § 1.704:

(1) 7 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to a non-Final Office Action more than 3 months following the mailing date of the Notice. The relevant dates are the mailing date of the Office Action on September 27, 2007 and the date the reply was filed on January 3, 2008.

(2) 116 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to correct an omission in a previously-filed response to an Office Action. The relevant dates are the date of the reply having the omission on January 3, 2008 and the date of the reply correcting the omission on April 28, 2008.

(3) 30 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to a non-Final Office Action more than 3 months following the mailing date of the Notice. The relevant dates are the mailing date of the Office Action on January 12, 2009 and the date the reply was filed on May 12, 2009.

The total PTA debits under 37 C.F.R. § 1.704 based on the debits noted above is 153 days.

Conclusion

Applicant respectfully requests the PTA determined by the U.S. Patent and Trademark Office by reconsidered in light of the foregoing. Based on the total PTA credits and debits set forth above, the correct PTA for the present application is 1,145 days.

Date: June 8, 2010

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Respectfully submitted,



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